

Central Intelligence Agency



Washington, D.C. 20505

11 JUL 1988

OCA 2188-88

The Honorable Henry Hyde
Ranking Minority Member
Permanent Select Committee
on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Hyde:

I recently returned from a trip abroad and found in my reading a copy of your perceptive article in the Washington Times on the Intelligence Oversight bill. I read it with great interest, as I have the various items you have put into the Congressional Record regarding intelligence oversight. As you know, I agree with the position you have taken on the dangers of a mandatory, fixed time period for the President to notify Congress of a covert action.

I appreciate all you have done in publicizing the problem with the 48-hour mandatory notice requirement, and I continue to hope that we can delete this requirement or defeat the bill. As always, I greatly value your views on matters of intelligence policy.

Sincerely yours,

/s/ Bill

William H. Webster
Director of Central Intelligence

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Sincerely yours,

A handwritten signature in dark ink, appearing to read "Bill", written over the typed name.

William H. Webster
Director of Central Intelligence

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM: John L. Helgerson
Director of Congressional Affairs

EXTENSION

NO.

OCA 2188-88

DATE

05 JUL 1988

TO: (Officer designation, room number, and building)

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OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Executive Registry

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3.

Executive Director

05 JUL 1988

4.

5.

Deputy Director of
Central Intelligence

6 July

6.

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7.

Director of Central
Intelligence

6 July 1988

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Return to Director
of Congressional Affairs

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OCA Registry

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More than covert can endure?

HENRY HYDE

The House of Representatives soon will consider whether to follow the Senate's questionable "lead" in decreeing that, without exception, Congress' intelligence committees or top leadership must be informed of every covert action within 48 hours of presidential approval.

As hearings have shown, many present and former policy officials, persons of widely varying political affiliations, strongly reject such inflexibility and congressional micromanagement of foreign policy. They cite the need to protect at least temporarily

a very few of the most sensitive operations from security leaks, as well as the dubious constitutionality of the proposal.

So corrosive has the permissive culture of "leaking" become that it materially contributed to the disastrous Iran escapade. Adm. John Poindexter testified that in addition to keeping even the congressional leadership in the dark for more than a year, he also deliberately minimized information given to top Cabinet and White House officials, and kept few documents or records of key meetings.

This is corroborated in the just-published memoirs of Don Regan, then White House chief of staff, who writes that unauthorized disclosures "had achieved such epidemic proportions that the inner circle was afraid to take notes lest they read them the next day in the newspapers." Mr. Regan concludes that "in fact, the root of the scandal may well lie in the fact that McFarlane and Poindexter and their assistants were, in a sense, driven mad by leaks."

The result was prolonged pursuit of an ill-considered and politically dangerous policy which suffered

grievously from lack of full consideration and thorough periodic review. The paucity of records also contributed to later confusion and

charges of a deliberate cover-up.

Some airily dismiss these security concerns as figments of Adm. Poindexter's paranoia. But every recent administration has quickly become appalled by the pervasiveness of leaks harmful to U.S.

foreign policy and intelligence capabilities.

Moreover, despite the admiral's extreme precautions, the Iran operation indeed was soon exposed, originally in some Jack Anderson columns. It finally unraveled because of a leak which, for a change, occurred in a foreign newspaper.

With increasing frequency, high-ranking intelligence officials testify before the House Intelligence Committee decrying the human, intelligence and policy damage inflicted by injurious leaks. Lately, some have even gone public in a campaign to point out the harmfulness of an avalanche of unauthorized disclosures.

In this effort, they are hampered by an inability to cite examples, for to do so would confirm the authenticity of published material and heighten the damage. A cursory glance at the daily headlines, however, should convince the average citizen that sensitive, intelligence-related issues have become regular media fare. One begins to suspect that the best way to publicize an issue is to stamp it "Top Secret" and wait for its predictable appearance in the media.

Nonetheless, members continue to press the 48-hour legislation, a key assumption being that Congress can

indeed be trusted in every instance, no matter what the risk.

Let us be clear about the facts here. Whatever its reservations about congressional reliability, each administration normally has swallowed its concerns and freely provided the legislature a wealth of

The Washington Post _____
The New York Times _____
The Washington Times F-1
The Wall Street Journal _____
The Christian Science Monitor _____
New York Daily News _____
USA Today _____
The Chicago Tribune _____

Date 21 June '88

classified information. The intelligence committees have controlled the oversight process for more than a decade now.

As CIA Deputy Director Bob Gates recently observed, the availability of classified information to the intelligence committees in particular, and to a lesser extent to Congress in general, has increased exponentially over these years, a factor which allows them considerably greater ability to probe and question administration foreign policy than Congress ever had before.

Prior to the Iran-Contra initiatives, there had been only two cases in which House and Senate leadership, rather than both full committees, were initially informed of a covert action.

There have been only four cases in which notification to Congress was delayed. Three occurred during the Carter administration. All involved attempts to retrieve U.S. citizens hiding in Iran or held hostage in Iran or Lebanon. In each of these cases, the administration feared deaths could result from media leaks, and knowledge of the operations was also highly restricted within the executive branch.

In three of those instances, although notification was delayed three to six months, the Congress heartily supported the administration.

In all four cases, the administration intended to notify the Congress eventually and was legally required to do so, but it could not be determined from the outset how long notification might be delayed. Thus, only one case — the Iran-Contra affair — has raised serious concerns about notification.

It is a precedent that is most unlikely to be repeated. Given heightened congressional sensitivities and the personal and political pain caused by the Iran-Contra investigation (exemplified by the attempted suicide of one policy-maker, financial burdens for them all, the destruction of reputations, and, in effect, the crippling of the Reagan

Continued

administration during its final two years), it is beyond imagination that any future administration again will temporarily withhold notification on an issue of similar potential controversy.

Moreover, as the bipartisan Tower Commission report noted, the Iran debacle occurred largely because existing procedures for handling covert action were ignored, not because new procedures were needed. The administration also has instituted additional precautions, such as an automatic review every 10 days if the president determines that notification to Congress must be delayed.

Congress will suffer a Pyrrhic victory if it wins on this issue. The Democratic majority will find succeeding presidents hamstrung in grappling with future hostage cases. Does anyone predict an end to hostage taking? And if, in one of those instances, word of covert initiatives leaks out prematurely, possibly triggering the death of a hostage or agent, it is Congress that will fall under a dark cloud of suspicion. At that point, the diminishing mutual trust essential to effective oversight will suffer yet another grievous blow.

Henry J. Hyde is a Republican representative from Illinois.